

201 KAR 26:140. Procedures for disciplinary hearings.

RELATES TO: KRS Chapter 13B, 319.092

STATUTORY AUTHORITY: KRS 319.032

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.092 mandates a hearing upon the filing of a grievance alleging a violation of KRS Chapter 319 to be conducted in accordance with the provisions of KRS Chapter 13B. KRS 319.032(2) authorizes the board to promulgate administrative regulations necessary to administer KRS Chapter 319. This administrative regulation establishes procedures which supplement the provisions of KRS Chapter 13B.

Section 1. Composition of the Hearing Panel. (1) Disciplinary actions may be heard by a hearing panel consisting of either a hearing officer and at least one (1) board member appointed by the board, or upon unanimous decision of the board, only by a hearing officer.

(2) A board member who has participated in the investigation of a grievance or who has personal knowledge of the facts giving rise to the grievance or for other reasons is unable to render a fair and impartial decision shall not sit as a member of the panel hearing that particular complaint.

(3) Separation of functions. A member, officer, or employee of the board who is engaged in the performance of investigative or prosecutorial functions for the board in a particular case or a factually related case, shall not participate in or advise in the decision of the disciplinary action, except as a witness or counsel in the hearing.

Section 2. Right of Administrative Hearing from a Denial of Initial Licensure or Refusal to Renew, Restore, or Reinstate a License. (1) The board shall issue written notice of the denial informing the applicant:

(a) Of the specific reason for the board's action, including:

1. The statutory or regulatory violation; and
2. The factual basis on which the denial is based; and

(b) That the applicant may appeal the pending denial to the board within twenty (20) calendar days after receipt of this notification, excluding the day he or she receives notice.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an appeal is not timely filed, the notice of denial shall be effective upon the expiration of the time for the certificate holder to request an appeal.

(4) The documentary evidence shall be limited to the application and supporting documents submitted to the board during the application process.

(5) A renewal applicant may petition the board, in writing, for a stay of the denial of the license until completion of the administrative hearing process.

Section 3. Revocation of Probation. (1) If the board moves to revoke probation, the board shall issue written notice of the revocation and inform the probationee:

- (a) Of the factual basis on which the revocation is based;
- (b) Of each probation term violated;
- (c) Of the sanction to be imposed; and

(d) That the probationee may appeal the revocation to the board within twenty (20) calendar days of the date of notification of revocation, excluding the day he or she receives notice. The notification shall be sent to the last known address on file with the board for the credential

holder.

(2) A written request for an administrative hearing shall be filed with the board within twenty (20) calendar days of the date of the board's notice. The request shall identify the specific issues in dispute and the legal basis on which the board's decision on each issue is believed to be erroneous.

(3) If the request for an administrative hearing is not timely filed, the notice of revocation shall be effective upon the expiration of the time for the credential holder to request an appeal.

Section 4. A request for an administrative hearing shall be sent to the Kentucky Board of Examiners of Psychology by mail to P.O. Box 1360, Frankfort, Kentucky 40602 or by hand-delivery to 911 Leawood Drive, Frankfort, Kentucky 40601.

Section 5. An administrative hearing shall be governed in accordance with KRS Chapter 13B.

Section 6. Hearing Fee. If the Final Order of the board is adverse to a credential holder or applicant, or if the hearing is scheduled at the request of a credential holder or applicant for relief from sanctions previously imposed by the board pursuant to the provisions of KRS Chapter 319, a hearing fee in an amount equal to the costs of stenographic services, the costs of the services of a hearing officer, if any, and the board's attorney fees shall be assessed against the respondent. In case of financial hardship, the board may waive all or part of the fee.

Section 7. Notification of Action Taken. A public notification describing all final disciplinary actions taken by the board to suspend, revoke, or refuse to issue or renew a license, restrict, or place a credential holder on probation shall be provided as mandated by KRS 319.092(6), and to the Association for State and Provincial Psychology Boards for publication in their data base. (13 Ky.R. 2162; eff. 7-2-87; Am. 20 Ky.R. 580; 934; eff. 10-21-93; 28 Ky.R. 1461; 1803; eff. 2-7-2002; 43 Ky.R. 1809; 44 Ky.R. 21; eff. 7-17-2017.)